

STATE OF MICHIGAN
COURT OF APPEALS

LAW OFFICES OF MARC A. FISHMAN, PC,
MICHAEL CHAYET and SHEDD FRASIER &
GROSSMAN, PLLC,

UNPUBLISHED
September 14, 2004

Plaintiffs-Appellants,

V

No. 247276
Wayne Circuit Court
LC No. 02-220156-DP

COUNTY OF WAYNE,

Defendant-Appellee.

Before: Donofrio, P.J. and White and Talbot, JJ.

PER CURIAM.

Plaintiffs appeal as of right from a circuit court order granting defendant's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiffs, two law firms and one individual, obtained copies of records from the county clerk. They filed this action alleging that defendant's practice of charging \$2.25 per page for photocopies of records violates the Michigan Consumer Protection Act (MCPA), MCL 445.901 *et seq.*, because the fee is allegedly excessive. Defendant argued that the practice at issue was exempt from the MCPA. The trial court agreed and dismissed the action. We review the trial court's ruling on a dispositive motion de novo on appeal. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000).

The MCPA prohibits unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce. MCL 445.903(1). Included in the prohibited conduct is charging a consumer "a price that is grossly in excess of the price at which similar property or services are sold." MCL 445.903(1)(z). "Such improper charging is only unlawful under the act, however, 'in the conduct of trade or commerce' as defined in the act." *Slobin v Henry Ford Health Care*, 469 Mich 211, 216; 666 NW2d 632 (2003). The MCPA defines "trade or commerce" as "the conduct of a business providing goods, property, or services primarily for personal, family, or household purposes" MCL 445.902(d). Thus, if the purchase is made primarily for business or commercial purposes, the MCPA is inapplicable. *Zine v Chrysler Corp*, 236 Mich App 261, 273; 600 NW2d 384 (1999).

The record shows that the two plaintiff law firms admittedly obtained the photocopies as an incident of providing legal services to clients. Because the copies of records were sought principally so that the law firms could engage in their own business or commercial enterprise, which purpose takes the activity outside the purview of the MCPA, *Slobin, supra* at 217-218, the trial court did not err in granting defendant's motion as to plaintiff law firms. This Court will not reverse where the trial court reached the right result for the wrong reason. *Taylor v Laban*, 241 Mich App 449, 458; 616 NW2d 229 (2000).

Assuming that plaintiff Chayet obtained copies of records for personal use, the *Slobin* decision does not affect his claim. Nevertheless, we find that it was properly dismissed.

The MCPA does not apply to a "transaction or conduct specifically authorized under laws administered by a regulatory board or officer acting under statutory authority of this state or the United States." MCL 445.904(1)(a). Under § 4(1)(a), "the relevant inquiry is not whether the specific misconduct alleged by the plaintiffs is 'specifically authorized.' Rather, it is whether the general transaction is specifically authorized by law, regardless of whether the specific misconduct alleged is prohibited." *Smith v Globe Life Ins Co*, 460 Mich 446, 465; 597 NW2d 28 (1999).

A county may establish a home rule charter if such action is approved by the electorate. MCL 45.501 *et seq.* The charter must provide for the election of a county board of commissioners, MCL 45.514(1)(b), which board conducts county business. MCL 46.1. The charter must also provide for the power and authority to adopt any ordinance "authorized by law or necessary to carry out any power, function, or service by this act and by the charter." MCL 45.514(i). The board of commissioners is authorized to "pass ordinances that relate to county affairs and do not contravene the general laws of this state or interfere with the local affairs of a township, city, or village" within the county limits and to "[e]stablish rules and regulations in reference to the management of the interest and business concerns of the county as the board considers necessary and proper in all matters not especially provided for in this act or under the laws of this state." MCL 46.11(j), (m). The board adopted an ordinance establishing fees to be collected by the county clerk for various services, including a fee of \$2.25 per page for copies of records not otherwise specified and not subject to the Freedom of Information Act. Other fees are set by statute. See, e.g., MCL 600.2529. The clerk must keep a record of public and private funds received in the course of his official duties, MCL 45.454, and pay them to the county treasurer. MCL 45.453. The records are subject to review by the board of auditors. MCL 45.454. Thus, the collection of fees for county services is authorized by law and regulated by the county board of commissioners and board of auditors. Therefore, the collection of fees for services is exempt from the MCPA under § 4(1)(a) and the trial court properly dismissed Chayet's claim as well.

Affirmed.

/s/ Pat M. Donofrio
/s/ Michael J. Talbot

I concur in result only

/s/ Helene N. White